



UNITED STATES PATENT AND TRADEMARK OFFICE

04 APR 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James P. Kastenmayer
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of: :
MIZUTANI, et al. :
Application No.: 10/522,277 :
PCT No.: PCT/JP03/09443 : DECISION ON PETITION
Int. Filing Date: 25 July 2003 :
Priority Date: 25 July 2002 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: 09812.0743-00000 :
For: FACTOR TAKING PART IN TRANSCRIPTION :
CONTROL :

The petition to revive under 37 CFR 1.137(b) filed 08 March 2007 in the above-captioned application is hereby **GRANTED** as follows:

A review of the application file reveals that applicant has now provided a compliant copy of the sequence listing in computer readable form. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant has also included a statement from detailing the abandonment period. It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the entire delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$2160.00 extension of time payment submitted with the petition on 08 March 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application has an international filing date of 25 July 2003 under 35 U.S.C. 363 and will be given a date of **05 July 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Application No.: 10/522,277

2

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Repln. Ref: 04/04/2007 SBASHEIR 0000030100
DAW:060916 Name/Number:10522277
FC: 9204 \$2160.00 CR